

BURKHART & BURKHART
940 DAKOTA AVENUE
WHITEFISH, MT 59937

Paper 5
COPY MAILED

JUN 15 2001

In re Application of
Lane
Application No. 09/676,973
Filed: September 27, 2000
Attorney Docket No. P0015

OFFICE OF PETITIONS
A/C PATENTS
DECISION GRANTING
PETITION

This is a decision on the petition, filed on March 26, 2001, in effect requesting that the Notice Of Omitted Item(s) ("Notice"), mailed on January 23, 2001, be withdrawn and that the application be accorded the filing date of September 27, 2000.

The petition is GRANTED.

The application was filed on September 27, 2000. However, on January 23, 2001, the Initial Patent Examination Division of the Office mailed the Notice stating that the application had been accorded a filing date of September 27, 2000, but that page 3 of the specification appeared to have been omitted.

In response, the present petition is filed wherein Petitioner argues that page 3 was not omitted from the application filed on September 27, 2000, and was in fact filed along with the remaining 15 pages of the specification on that date. In support, the present petition is accompanied by a copy of Petitioner's postcard receipt indicating receipt by the Office of 16 pages of specification for this application on September 27, 2000, and a "copy" of the 16-page specification allegedly filed in its entirety on the same date.

The specification currently in the Office file includes a written description on pages 2, 4-9, claims 1-20 on pages 10-15, and an abstract on page 16. This file does not contain a page 3. Upon comparison of the actual papers in this file with the contents of the "copy" of the 16-page as well as page 3 of the specification supplied with the present petition, it is clear that this newly submitted page 3 is an integral part of the application and fits between pages 2 and 4. The information on Petitioner's postcard receipt further evidences that 16 pages of specification, which would have included a page 3, were filed on September 27, 2000.

In view of the above, it is concluded that the papers for this particular application were mishandled by the Office.

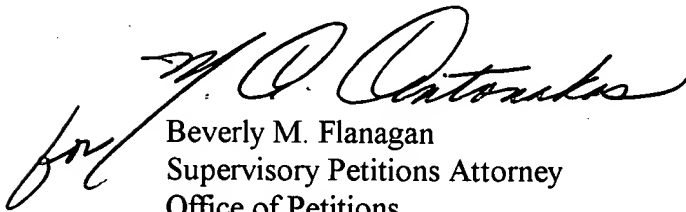
The petition is granted.

The Notice mailed on January 23, 2001 is hereby withdrawn.

The application is being forwarded to the Office of Finance for refunding the \$130.00 petition fee as requested in the present petition.

Thereafter, the application will be returned to the Initial Patent Examination Division for further processing with a filing date of September 27, 2000, using the specification as filed on that date and supplemented by the page 3 submitted with the present petition.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy